

CATHARINE McCARTY.

MAY 25, 1898.—Committed to the Committee of the Whole House and ordered to be printed.

MR. CASTLE, from the Committee on Invalid Pensions, submitted the following

REPORT.

[To accompany H. R. 3239.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3239) granting a pension to Catharine McCarty, have examined the same and the evidence relating thereto, and respectfully report:

This bill proposes to pension, at \$12 per month, subject to the provisions and limitations of the pension laws, Catharine McCarty, of Tustin, Cal., the widow of John McCarty, late private, Company B, First Missouri State Militia Volunteer Cavalry. The soldier enlisted February 5, 1862, and died in service April 8, 1864. Widow filed a claim under the general law, but it was rejected on the ground that claimant's death did not result from causes originating in line of duty in the service. This action was appealed from, but sustained by the Assistant Secretary of the Interior.

July 22, 1890, she filed a claim under the act of June 27, 1890, and that was rejected April 22, 1891, on the ground that the soldier did not receive an honorable discharge from the service, as required by act of June 27, 1890. An appeal was taken from this action but it also was sustained by the Assistant Secretary.

It appears that the soldier's death followed the taking of a dose of colchicum which had been prepared for another soldier, who requested McCarty to taste it. McCarty, being in perfect health and needing no medicine, swallowed a draught of it simply upon this suggestion. He commenced vomiting and purging and his condition was immediately made known to the assistant surgeon, but the cause was not reported. Bismuth and paregoric were sent to McCarty and he was thereby temporarily relieved, and reported himself next morning to the assistant surgeon, who then for the first time learned what he had taken. "I considered him out of danger," says the assistant surgeon, "and requested him to remain in the hospital a day or two." The soldier then ate his breakfast and suddenly died.

In the claim under the general law it is held that his death resulted

from his own improper conduct in taking medicine when he was perfectly well and in need of no medicine, and which medicine was prescribed and prepared for another soldier.

The claim under the act of June, 1890, was rejected under an extremely technical construction of the act of June 27, 1890. The act provides pension for the widow of a soldier who served ninety days and was honorably discharged, etc., and the construction holds in effect that death is not an honorable discharge.

This soldier served over two years. Had he served ninety days only and been honorably discharged, and then deliberately committed suicide or been killed in a drunken brawl, or had his death occurred in any other way as a result of his improper, immoral, or vicious conduct, or even by hanging for murder, the widow would be held to be entitled to a pension under the act in question.

This committee has repeatedly declared that in its opinion the construction placed by the Department upon the requirement of an "honorable discharge" is too technical, and operates in many cases to defeat the intention of that act, and it seems to have that effect in this case.

The bill is reported back with the recommendation that it pass when amended as follows:

In line 4, after "roll," insert "subject to the provisions and limitations of the pension laws."

Strike out all after "volunteers," in line 7, and insert in lieu thereof "and pay her a pension at the rate of twelve dollars per month."